

AMENDED IN SENATE MARCH 24, 2003

SENATE BILL

No. 372

Introduced by Senator Margett

February 19, 2003

An act to amend Section 5008 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

SB 372, as amended, Margett. Involuntary detention: grave disability.

The Lanterman-Petris-Short Act authorizes the involuntary detention, for a period of 72 hours for evaluation and treatment, of persons who are, as a result of mental disorder, dangerous to themselves or to others, or are gravely disabled, as defined. The act authorizes a superior court to order an evaluation of persons who are alleged, as a result of mental disorder, to be dangerous to themselves or to others, or to be gravely disabled, as defined.

For purposes of the above, existing law defines the term "gravely disabled" to mean, among other things, a condition in which a person has been found to be mentally incompetent pursuant to specified criminal law proceedings where the indictment or information pending against the defendant at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person, and the indictment or information has not been dismissed.

This bill would revise this definition to include, in addition to situations in which such an indictment or information is pending against the defendant, situations in which a *criminal* complaint is pending

against the defendant at the time of commitment, as specified, and the complaint has not been dismissed.

By expanding the definition of grave disability for purposes of the act to include situations in which a complaint charging specified crimes is pending against a defendant at the time of commitment, this bill would impose a state-mandated local program by increasing the duties of local officials.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 5008 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 5008. Unless the context otherwise requires, the following
- 4 definitions shall govern the construction of this part:
- 5 (a) "Evaluation" consists of multidisciplinary professional
- 6 analyses of a person's medical, psychological, educational, social,
- 7 financial, and legal conditions as may appear to constitute a
- 8 problem. Persons providing evaluation services shall be properly
- 9 qualified professionals and may be full-time employees of an
- 10 agency providing evaluation services or may be part-time
- 11 employees or may be employed on a contractual basis.
- 12 (b) "Court-ordered evaluation" means an evaluation ordered
- 13 by a superior court pursuant to Article 2 (commencing with
- 14 Section 5200) or by a court pursuant to Article 3 (commencing
- 15 with Section 5225) of Chapter 2.
- 16 (c) "Intensive treatment" consists of hospital and other
- 17 services that may be indicated. Intensive treatment shall be



provided by properly qualified professionals and carried out in facilities qualifying for reimbursement under the California Medical Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9, or under Title XVIII of the federal Social Security Act and regulations thereunder. Intensive treatment may be provided in hospitals of the United States government by properly qualified professionals. Nothing in this part shall be construed to prohibit an intensive treatment facility from also providing 72-hour treatment and evaluation.

(d) "Referral" is referral of persons by each agency or facility providing intensive treatment or evaluation services to other agencies or individuals. The purpose of referral shall be to provide for continuity of care, and may include, but need not be limited to, informing the person of available services, making appointments on the person's behalf, discussing the person's problem with the agency or individual to which the person has been referred, appraising the outcome of referrals, and arranging for personal escort and transportation when necessary. Referral shall be considered complete when the agency or individual to whom the person has been referred accepts responsibility for providing the necessary services. All persons shall be advised of available precare services that prevent initial recourse to hospital treatment or aftercare services that support adjustment to community living following hospital treatment. These services may be provided through county welfare departments, the State Department of Mental Health, Short-Doyle programs, or other local agencies.

Each agency or facility providing evaluation services shall maintain a current and comprehensive file of all community services, both public and private. These files shall contain current agreements with agencies or individuals accepting referrals, as well as appraisals of the results of past referrals.

(e) "Crisis intervention" consists of an interview or series of interviews within a brief period of time, conducted by qualified professionals, and designed to alleviate personal or family situations that present a serious and imminent threat to the health or stability of the person or the family. The interview or interviews may be conducted in the home of the person or family, or on an inpatient or outpatient basis with therapy, or other services, as may be appropriate. Crisis intervention may, as appropriate, include

1 suicide prevention, psychiatric, welfare, psychological, legal, or
2 other social services.

3 (f) “Prepetition screening” is a screening of all petitions for
4 court-ordered evaluation as provided in Article 2 (commencing
5 with Section 5200) of Chapter 2, consisting of a professional
6 review of all petitions, an interview with the petitioner, and,
7 whenever possible, an interview with the person alleged, as a result
8 of mental disorder, to be a danger to others, or to himself or herself,
9 or to be gravely disabled, to assess the problem and explain the
10 petition, and, when indicated, efforts to persuade the person to
11 receive, on a voluntary basis, comprehensive evaluation, crisis
12 intervention, referral, and other services specified in this part.

13 (g) “Conservatorship investigation” means investigation by
14 an agency appointed or designated by the governing body of cases
15 in which conservatorship is recommended pursuant to Chapter 3
16 (commencing with Section 5350).

17 (h) (1) For purposes of Article 1 (commencing with Section
18 5150), Article 2 (commencing with Section 5200), and Article 4
19 (commencing with Section 5250) of Chapter 2, and for the
20 purposes of Chapter 3 (commencing with Section 5350), “gravely
21 disabled” means either of the following:

22 (A) A condition in which a person, as a result of a mental
23 disorder, is unable to provide for his or her basic personal needs
24 for food, clothing, or shelter.

25 (B) A condition in which a person has been found mentally
26 incompetent under Section 1370 of the Penal Code and all of the
27 following facts exist:

28 (i) The complaint, ~~indictment, or~~ pursuant to Section 806 of the
29 Penal Code, the indictment, or the information pending against the
30 defendant at the time of commitment charges a felony involving
31 death, great bodily harm, or a serious threat to the physical
32 well-being of another person.

33 (ii) The complaint, ~~indictment, or~~ pursuant to Section 806 of
34 the Penal Code, the indictment, or the information has not been
35 dismissed.

36 (iii) As a result of mental disorder, the person is unable to
37 understand the nature and purpose of the proceedings taken against
38 him or her and to assist counsel in the conduct of his or her defense
39 in a rational manner.



(2) For purposes of Article 3 (commencing with Section 5225) and Article 4 (commencing with Section 5250), of Chapter 2, and for the purposes of Chapter 3 (commencing with Section 5350), “gravely disabled” means a condition in which a person, as a result of impairment by chronic alcoholism, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

(3) The term “gravely disabled” does not include mentally retarded persons by reason of being mentally retarded alone.

(i) “Peace officer” means a duly sworn peace officer as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code who has completed the basic training course established by the Commission on Peace Officer Standards and Training, or any parole officer or probation officer specified in Section 830.5 of the Penal Code when acting in relation to cases for which he or she has a legally mandated responsibility.

(j) “Postcertification treatment” means an additional period of treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2.

(k) “Court,” unless otherwise specified, means a court of record.

(l) “Antipsychotic medication” means any medication customarily prescribed for the treatment of symptoms of psychoses and other severe mental and emotional disorders.

(m) “Emergency” means a situation in which action to impose treatment over the person’s objection is immediately necessary for the preservation of life or the prevention of serious bodily harm to the patient or others, and it is impracticable to first gain consent. It is not necessary for harm to take place or become unavoidable prior to treatment.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000),

- 1 reimbursement shall be made from the State Mandates Claims
- 2 Fund.

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